

House Bill 345 (COMMITTEE SUBSTITUTE)

By: Representatives Cooper of the 43rd, Silcox of the 52nd, Anulewicz of the 42nd, Rich of the 97th, Harrell of the 106th, and others

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 1 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated,
2 relating to inmate policies, so as to provide for prohibited practices relating to a pregnant
3 female inmate or a female inmate who is in the immediate postpartum period; to provide for
4 definitions; to prohibit certain actions relating to strip searches, examinations, and labor and
5 delivery; to provide for documentation and annual reporting of certain information; to
6 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
7 other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Article 1 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to
11 inmate policies, is amended by adding a new Code section to read as follows:

12 "42-1-11.3.

13 (a) As used in this Code section, the term:

14 (1) 'Custodian' means warden, sheriff, jailer, deputy sheriff, police officer, or any other
15 law enforcement officer having actual custody of a woman.

16 (2) 'Immediate postpartum period' means the six-week period following childbirth unless
17 extended by a physician due to complications.

18 (3) 'Officer in charge' means the warden, captain, superintendent, or other individual who
19 is responsible for the supervision of a penal institution.

20 (4) 'Penal institution' means any place of confinement for individuals accused of,
21 convicted of, or adjudicated for violating a law of this state or an ordinance of a political
22 subdivision of this state.

23 (5) 'Woman' means a female who is confined in a penal institution.

24 (b) A pregnant woman shall not be required to squat or cough during a strip search
25 conducted by a custodian during the second or third trimester of pregnancy.

26 (c) A pregnant woman shall not be required to undergo any vaginal examination unless
27 prescribed and performed by a licensed health care professional.

28 (d)(1) Except as otherwise provided in this subsection and notwithstanding Code
29 Section 42-5-58, a custodian shall not use handcuffs, waist shackles, leg irons, or
30 restraints of any kind on a woman who is in the second or third trimester of pregnancy,
31 in labor, in delivery, or in the immediate postpartum period.

32 (2) A pregnant woman or woman who is in the immediate postpartum period may only
33 be restrained using wrist handcuffs with her wrists held in front of her body and only if
34 there are compelling grounds to believe that such woman presents:

35 (A) An immediate and serious threat of harm to herself, staff, or others; or

36 (B) A substantial flight risk and cannot be reasonably contained by other means.

37 (3) If a custodian uses wrist handcuffs on a pregnant woman or woman who is in the
38 immediate postpartum period under an exception provided in paragraph (2) of this
39 subsection, the circumstances for and details of such exception shall be documented
40 within three days of the incident. Such information shall include the nature of the
41 circumstances and the length of time of such use of restraints. The documentation shall
42 be reviewed by the officer in charge and retained by the penal institution for reporting
43 purposes.

44 (4) Nothing in this subsection shall prohibit the use of medical restraints by a licensed
45 health care professional to ensure the medical safety of the woman.

46 (e) By October 1, 2020, and annually thereafter, penal institutions shall report to the
47 Department of Public Health the following:

48 (1) Data collected pursuant to paragraph (3) of subsection (d) of this Code section;

49 (2) Total number of women;

50 (3) Total number of pregnant women;

51 (4) Total number of births, including the number of live births and stillbirths, and the
52 gestational age and birth weight of each infant at the time of birth or stillbirth; and

53 (5) Number and type of maternal complications.

54 (f) Commencing November 1, 2020, the Department of Public Health and the Department
55 of Corrections shall jointly provide to the House Committee on Judiciary and the Senate
56 Judiciary Committee an annual report for the prior year detailing, for each penal institution,
57 the:

58 (1) Data collected pursuant to paragraph (3) of subsection (d) of this Code section;

59 (2) Total number of women;

60 (3) Total number of pregnant women;

61 (4) Total number of births, including the number of live births and stillbirths, and the
62 gestational age and birth weight of each infant at the time of birth or stillbirth; and

63 (5) Number and type of maternal complications.

64 (g) The reports provided in subsections (e) and (f) of this Code section shall exclude
65 patient identifying information and shall be compliant with state and federal laws regarding
66 confidentiality."

67 SECTION 2.

68 This Act shall become effective on October 1, 2019.

69 SECTION 3.

70 All laws and parts of laws in conflict with this Act are repealed.